Calendar No. 225

100TH CONGRESS *1st Session*	SENATE	REPORT 100-99

AIRPORT AND AIRWAY CAPACITY EXPANSION ACT OF 1987

Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

OF THE

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ON

S. 1184

JULY 1 (legislative day, JUNE 23), 1987.—Ordered to be printed

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Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany S. 1184]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1184) to amend the Airport and Airway Improvement Act of 1982 to improve the safety and efficiency of air travel, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill do pass.

PURPOSE OF THE BILL

The bill, as reported, would authorize expenditures from the Airport and Airway Trust Fund for airport and airway development for fiscal years 1988 through 1990, and makes a number of improvements to the existing program to promote the safety and development of the airport and airway system. The bill also requires the Federal Aviation Administration (FAA) to hire additional air traffic controllers to ensure improved safe operation of the airways.

BACKGROUND AND NEEDS

The Airport and Airway Trust Fund was established in 1970 (Public Law 91-258, the Airport and Airway Development Act) as a mechanism through which Federal excise tax revenues generated by users would be dedicated to and made available for Federal airport and airway development programs, as well as to defray part of the Federal Government's cost of operating the air traffic control system. Under this bill, funding for airport and airway development was authorized for fiscal years 1971 through 1975.

Legislation extending the collection of user taxes and expenditures from the Trust Fund has been enacted several times, with revisions made to increase funding levels and to reflect on-going changes in the aviation industry. In 1973, Congress approved the Airport Development Acceleration Act (Public Law 93-44) which increased funding for the airport grant program for fiscal years 1974 and 1975 and prohibited airports from imposing passenger facility charges, or "head taxes." In 1976, the Airport and Airway Development Act Amendments (Public Law 94-353) reauthorized airport grants for fiscal years 1976 through 1980, increasing funding levels and the Federal share for airport projects, as well as liberalizing project eligibility. It also authorized the use of the Trust Fund for FAA operational expenses. In 1979, Congress increased the emphasis on Federal grants for noise reduction projects when it enacted the Aviation Safety and Noise Abatement Act (Public Law 96-193). Finally, the Surface Transportation Assistance Act of 1982 (Public Law 97-424) increased Airport Improvement Program grants for fiscal years 1982 through 1985 as a means of creating additional jobs.

The current authorization is the Airport and Airway Improvement Act of 1982 (Public Law 97-248). Under this legislation, both tax and funding levels were increased, with the Congress approving the National Airspace System (NAS) Plan, which calls for the modernization of the air traffic control system. The existing authorization for spending expires on September 30, 1987, with the authority to collect user taxes expiring on December 31, 1987.

Twice, during the past 17 years, the authorization legislation has expired, from June 1975 through July 1976, and again from September 1980 through September 1982. During these times, no funds were made available for the airport grant program, and the aviation user taxes were reduced. In both instances, either the House or Senate passed a bill, but no agreement was reached prior to expiration of the existing statute.

The Trust Fund is supported by a variety of taxes on aviation users, including an 8 percent domestic passenger ticket tax, a $3 international departure tax, a 5 percent freight waybill tax, a .12 to .14 cent a gallon tax on general aviation fuels, and a .05 and .10 cent tax on tires and tubes, respectively. In fiscal year 1986, these fees, together with interest, generated $3.9 billion, all of which was credited to the Trust Fund.

By September 30, 1987, the cash balance of the Airport and Airway Trust is projected to total nearly $10 billion. Of that amount, approximately $5.63 billion is estimated to be surplus, or in excess of current obligations. As the following table illustrates, the Trust Fund surplus has grown significantly in the past few years.

GROWTH OF AIRPORT AND AIRWAY TRUST FUND SURPLUS

[Based on FAA estimates—in millions of dollars]

	1982	1983	1984	1985	1986	1987
End of year cash balance	3,881	4,787	6,441	7,426	8,625	9,978
End of year uncommitted balance	2,156	2,063	3,274	3,195	4,312	5,632

This increase in the Trust Fund surplus can be attributed to two factors. Since 1982, Presidential budget requests and congressional funding levels for airport and airway improvement programs have been significantly below authorized levels. This has been particularly true for the airway modernization program, where funding shortfalls over the five-year period total $1.6 billion. In addition, because annual appropriations for FAA capital improvement programs have been less than authorized levels, the amount of the Trust Fund that can be used for FAA operations has been reduced, thus contributing to the growth of the Trust Fund surplus.

The Trust Fund supports four major programs administered by the FAA, including the Airport Improvement Program (AIP); FAA Facilities and Equipment, including the National Airspace System Plan; the supporting Research and Development programs; and a portion of FAA Operations and Maintenance expenses.

FEDERAL INVESTMENT IN AIRPORT CAPACITY MUST BE INCREASED

Historically, the Federal Government's willingness to ensure adequate funding for the Airport Improvement Program has fluctuated. Between 1971 and 1980, Federal airport grant funding levels increased from $280 million to $700 million. However, budget cuts in fiscal years 1981 and 1982 cut the program nearly in half, reducing airport program levels to $450 million. Under the currently expiring authorization, airport grants from the Airport and Airway Trust Fund have increased to $1.0 billion in fiscal year 1987.

Using AIP funds, several hundred airport runaways have been constructed and extended. In addition, these funds have been used for safety and security projects required by FAA regulations, as well as taxiways, aprons, noise control projects, airport lighting, navigational aids, weather equipment, public-use portions of terminals roads, the purchase of land, and a variety of other projects.

Under current law, the bulk of AIP funds are dedicated toward improving primary airports—the approximately 260 busiest airports that receive the largest share of commercial airline service. Under current apportionment formulas, not more than 50 percent of available AIP funds are dedicated to primary airports, based on the number of passengers enplaned at those airports; 12 percent is apportioned to the States and insular areas; $12.5 million is apportioned to Alaskan Airports; and the remaining funds, totaling 36.5 percent of total AIP funding, are designated as discretionary funds which may be obligated for use by any airport, but with prescribed overall minimums set out for small commercial service airports, airport system planning, and noise compatibility projects.

As successful as the AIP program has been in the most recent years, there are significant capacity shortages at the Nation's major airports. This is largely due to the fact that insufficient Federal resources have been made available for airport development, even though the Airport and Airway Trust Fund, with its surplus, could have supported substantially higher levels of Federal investment. During Subcommittee hearings, airport groups testified that between 1982 and 1986, the FAA was forced to turn down requests for eligible AIP projects worth almost $10 billion because of a shortage of appropriated funding. At present, over $3 billion in eli-

gible construction grant applications are on file with the FAA, awaiting additional appropriations.

In addition to current needs which are not being met, AIP-eligible airport needs for the next 10 years total $24.3 billion, according to the FAA's 1987 National System of Integrated Airport Systems (NPIAS). Without this funding, the airport system will be unable to accommodate projected increases above today's record airline traffic levels. In fact, the FAA claims that 72 percent of the total airport development needed in the future is related to increasing capacity in the airport system to handle growing passenger volumes and aircraft operations.

This legislation is designed to ensure that adequate Federal capital funds, contributed by aviation users, are made available to expand the capacity of our Nation's airport system to meet current and anticipated demand. Adequate funding is critical for eliminating the current shortage of airport capacity, which is causing the FAA to delay aircraft at the point of origination until the airport at the point of destination can accommodate that aircraft. The imposition of this "Flow Control" as a means of ensuring safe air travel has lenghtened travel times, contributed to record levels of delayed airline flights, and cost the consumer and the airline industry billions of dollars.

MODERNIZATION OF THE AIRWAY SYSTEM MUST BE ACCELERATED

This legislation is also designed to accelerate the modernization of the air traffic control system under the NAS Plan. First approved in 1982, the NAS Plan, which is funded through the FAA's Facilities and Equipment account, is designed to update, consolidate, and automate the Nation's air traffic control, navigation, and communications systems.

The NAS Plan is a 10-year, $12.2 billion program that will take the air traffic control system from vacuum tubes to modern electronic technology. It is a massive and complex undertaking that upgrades virtually all aspects of the air traffic control system and, through the implementation of some 90 projects, replaces about 22,000 facilities. These projects range from runway light replacements to new air traffic control computers.

Implementation of many of the projects under the NAS Plan have been delayed since initial authorization was provided in 1982. Various components of the NAS Plan are between two and eight years behind schedule. These delays have been due in part to overly-optimistic expectations of the FAA about contractor schedules, failure of certain contractors to meet technical requirements, and insufficient funding.

Without significant increases in funding for FAA Facilities and Equipment to ensure completion of the NAS Plan, the Nation's air traffic control system will not be able to accommodate safely increasing levels of airline traffic. This legislation will provide for the necessary funding to keep the modernization program on schedule, thus ensuring the safe, efficient movement of aircraft throughout the air transportation system.

According to the FAA, the implementation and successful completion of the NAS Plan will save an estimated $26 billion in FAA

operating and maintenance costs over the next 25 years. Another $37 billion will be saved by the aviation community in safety and efficiency benefits.

AIR TRAFFIC CONTROLLER STAFFING MUST BE INCREASED

In August 1981, in response to the illegal strike by the Professional Air Traffic Controllers Organization (PATCO), the President fired over 11,000 of the 16,500 air traffic controllers at the FAA. Since that time, the FAA has been attempting to rebuild the air traffic control system by hiring additional controllers, expediting training schedules, pursuing the replacement of aging computers and navigational systems, and finally, restricting airline traffic.

In light of increasing concerns over aviation safety, as well as airline delays, there is a clear consensus that more controllers are needed. The Committee's bill addresses this by increasing the number of authorized air traffic controllers by an additional 1,000 above the 15,000 total controllers workforce level mandated by Congress last year. The additional controllers will bring the total controller workforce to a level approximating pre-strike staffing, and will help ensure operational safety in the national airport and airway system.

LEGISLATIVE HISTORY

The Aviation Subcommittee, chaired by Senator Ford, held four days of hearings on this legislation. On March 26, the subcommittee held an overview hearing on the Trust Fund programs, taking testimony from Deputy Transportation Secretary James Burnley and FAA Administrator Donald Engen, as well as Edward Gramlich, Acting Director of the Congressional Budget Office. On April 7, the subcommittee focused on the Airport Improvement Program, with a group of witnesses which included the airport groups, State officials, the airlines, and construction industry representatives.

On April 8, a third hearing was held focusing on the NAS Plan. Witnesses included the General Accounting Office, general aviation groups, and airway systems maintenance representatives. The fourth hearing was held on April 20, in Denver, CO, where the subcommittee focused on the proposed Denver airport project, airport noise problems, and research into wind shear detection and avoidance.

On May 12, Senator Ford introduced S. 1184. On May 14, the Committee began consideration of S. 1184, approving several amendments to the bill. Among these were Senator Kerry's amendment related to noise abatement grants, Senator Breaux's amendment related to contracting procedures, and Senator Kassebaum's amendment establishing a pilot State block grant program. On June 4, the Committee agreed to a technical amendment, offered by Senator Ford, clarifying funding levels in the bill. Then, without objection, the Committee ordered the bill, as amended, reported.

The Committee also approved a waiver of section 303(a) of the Congressional Budget Act of 1974. This waiver is necessary because the bill provides for the direct spending of funds, under the Airport Improvement Program, in years for which no budget resolution has

been adopted. Such direct spending can occur without appropriations, and thus is considered an entitlement.

Summary of Major Provisions

The bill, as reported, amends title V of Public Law 97-248, the Airport and Airway Improvement Act of 1982. The following changes are made to current law.

1. The bill authorizes funding for the following FAA programs for fiscal years 1988 through 1990. The amounts authorized are as follows:

S. 1184 AUTHORIZATION LEVELS

[In millions of dollars]

	Fiscal year—		
	1988	1989	1990
Airport Improvement Program	1,600	1,700	1,800
Facilities and equipment (NAS Plan)	1,500	1,500	1,750
Research and development [1]	200	200	225
Operations and maintenance	1,600	1,700	1,800

[1] Of this amount, no less than $25 million must be appropriated annually for research and development projects relating to airport capacity improvements. In addition, $250,000 is to be used in fiscal year 1988 for the development of equipment designed to provide improved access by handicapped persons to commercial aircraft.

The bill retains, with minor changes, the provisions in current law that are designed to encourage full funding of the AIP and the Facilities and Equipment account by establishing proportions of funding for FAA capital and operating programs from the Trust Fund.

2. The bill makes a number of revisions to the formulas for apportioning funds under the AIP:

—A 3 percent set-aside is established for airports serving as hubs for all-cargo air service and annually having at least 100 million pounds landed weight of such all-cargo aircraft. Currently, funds for airports with significant cargo traffic are available based only on the number of passengers enplaned at each primary airport and the discretion of the Secretary.

—A set-aside of not less than $250 million a year is established for critical capacity expansion projects at primary and reliever airports (designed to "relieve" the major primary airports of general aviation operations).

—The minimum percentage of total AIP funds that is to be made available for noise abatement projects is increased from 8 to 10 percent.

—The minimum percentage of total AIP funds apportioned to non-primary commercial service airports (smaller airports) is reduced from 5.5 percent to two percent. This is possible because of increased numbers of small commercial service airports that will receive their Federal funds through formula grants as primary airports.

—The maximum apportionment for primary airports is reduced from 50 percent under current law to 38 percent. This will still provide adequate funding to cover all formula grants to these

airports because of the recommended increase in authorized funding levels.

The bill does not change the current minimum apportionment formula requirements for reliever airports, general aviation airports in the States and territories, airport planning, and Alaskan airports.

3. The bill makes several other changes to the Airport Improvement Program:

—It allows primary and reliever airports to begin construction of a project in advance of funding, with eligible costs to be reimbursed by the Secretary if (a) the project will result in a significant enhancement of system-wide capacity, (b) the Secretary was notified of the airport sponsor's intent to seek reimbursement, and (c) assurances have been made that the project will meet all applicable statutory and administrative requirements imposed on airport sponsors.

—It reduces the eligibility criteria for primary airports from .01 of all system-wide passenger enplanements (currently approximately 40,500 passengers) to 10,000 passengers enplaned annually, thus making approximately 160 additional airports eligible for AIP formula grants.

—It increases the minimum amount any primary airport can receive in one year from $200,000 to $300,000, and the maximum the largest airports can receive from $12.5 million to $16 million.

—It removes the current limitations on the use of AIP enplanement funds for public-use, nonrevenue-producing portions of terminal development, although still mandating that an airport must certify that it has met its safety and security requirements before devoting its apportionment to terminal construction projects.

—It denies AIP funds to any airport project using foreign materials or services if the foreign country does not allow fair and equitable market opprortunities for U.S. bidders, unless such action would be determined not to be in the public interest. (This provision incorporates S. 764, legislation introduced by Senator Murkowski.)

—It requires the Secretary to propose implementing regulations governing the responsibilities of airport sponsors receiving funds under the AIP, including possible amendments to sponsor assurances to be included in grant agreements, with final regulations becoming effective no later than one year after enactment of this legislation.

4. The bill makes permanent the low activity (VFR) Level I air traffic control tower contract program now administered by the FAA. Currently, several smaller communities with temporarily closed air traffic control towers have entered into contracts with the FAA to operate those towers.

5. The bill requires that by no later than September 30, 1988, the FAA hire 1,000 air traffic controllers, in addition to the 15,000 required by current law. The bill also specifies that none of these additional air traffic controllers shall be air traffic assistants, positions which are clerical in nature.

Estimated Costs

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office.

U.S. Congress,
Congressional Budget Office,
Washington, DC, June 9, 1987.

Hon. Ernest F. Hollings,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached cost estimate for S. 1184, the Airport and Airway Capacity Expansion Act of 1987.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

Edward M. Gramlich,
Acting Director.

Congressional Budget Office Cost Estimate

1. Bill number: S. 1184.
2. Bill title: Airport and Airway Capacity Expansion Act of 1987.
3. Bill status: As ordered reported by the Senate Committee on Commerce, Science, and Transportation, June 4, 1987.
4. Bill purpose: The bill provides three-year authorizations (from 1988 through 1990) for program funded by the Airport and Airway Trust Fund. These programs include grants for airport development and airport planning (grants-in-aid); airway facilities and equipment; research, engineering and development; aviation weather services; and a portion of the costs for operation and maintenance of the air traffic control system. S. 1184 would limit the availability of trust fund monies for the air traffic control system to the amount of direct spending authority for the grants-in-aid program. It would also extend a penalty clause that reduces the maximum amount that may be appropriated from the Trust Fund for operation and maintenance of the air traffic control system if appropriations for the facilities and equipment program fall below authorized amounts. In addition, S. 1184 would extend the Explosive Detection K–9 Team Training Program for three years (from 1988 through 1990).

S. 1184 would require that the Secretary of Transportation promulgate regulations relating to the grants-in-aid program and implement a two-year state block grant pilot program (for fiscal years 1990 and 1991). In addition, the bill would make a number of changes to the apportionment of grant funds.

The bill would also require that the Secretary of Transportation and the Secretary of Defense jointly conduct a national review of the need and utilization of special use airspace, and that the Federal Aviation Administration (FAA) hire not less than 1,000 air traffic controllers (in addition to the current total air traffic controller

work force level of 15,000 specified in Public Law 99-591) by September 30, 1988.

5. Estimated cost to the Federal Government: S. 1184 provides direct spending authority for the grants-in-aid program, and authorizes appropriations from the Airport and Airway Trust Fund for other programs. The table below summarizes the total costs of the bill, showing both the total spending for the programs authorized by the bill (including outlays from previous years' authority), as well as spending changes relative to current law (which do not include outlays from previous years' authority).

[By fiscal years, in millions of dollars]

	1988	1989	1990	1991	1992
Direct spending for grants-in-aid to airports:					
Budget authority	1,600	1,700	1,800		
Estimated total outlays [1]	1,027	1,317	1,502	1,364	719
Estimated change in outlays relative to current law	240	895	1,270	1,220	642
Authorizations of appropriations:					
Authorization levels:					
Facilities and equipment	1,500	1,500	1,750		
Research, engineering and development	200	200	225		
Aviation weather services	30	30	30		
Explosive detection K-9 team training program	([2])	([2])	([2])		
Total authorizations	1,730	1,730	2,005		
Estimated total outlays [1]	1,207	1,391	1,586	1,491	1,271
Estimated change in outlays relative to current law	280	695	1,126	1,188	995
Total:					
Budget authority/authorization level	3,330	3,430	3,805		
Estimated total outlays [1]	2,234	2,708	3,088	2,855	1,990
Estimated change in outlays relative to current law	520	1,590	2,396	2,408	1,637

[1] Including outlays from authority available before fiscal year 1988.
[2] Less than $500,000.

In addition to the funds authorized by the bill, there are a number of provisions that would result in costs to the federal government but for which no funds were specifically authorized. Based on information from the Department of Transportation (DOT), CBO estimates that costs for the additional air traffic controllers would be $40 million to $50 million annually, assuming appropriation of the necessary amounts. CBO estimates that the development of regulations relating to the grants-in-aid program, the two-year state block grant program, and the national review of the need and utilization of special use airspace would cost $1 million to $2 million in total over the five-year period.

The costs of this bill would fall in budget function 400.

Basis of Estimate:

CBO assumes that all funds authorized by the bill for fiscal years 1988-1990 will be appropriated prior to the beginning of each fiscal year. The Explosive Detection K-9 Team Training Program is authorized at not less than $130,000 nor more than $150,000 per year. CBO assumes that the maximum amount of funds authorized for this program ($150,000) will be appropriated. Outlays are based on historical spending rates.

Outlays for the grants-in-aid program are controlled primarily by the annual obligation ceiling. For the purpose of this estimate, CBO assumes that the annual obligation ceiling will be set at the level of contract authority authorized.

CBO's estimate does not include any portion of Trust Fund revenues that may be used to fund part of the costs for operation and maintenance of the air traffic control system. The authority to appropriate Trust Fund monies for this purpose would not affect the total amount of funding for the air traffic control system, only the source of that funding.

CBO expects the air traffic controller work force level to be 15,225 by the end of fiscal year 1987, and this bill would therefore require that an additional 775 air traffic controllers be hired by the end of fiscal year 1988. Estimated costs include training, salaries and benefits, assuming that the additional air traffic controllers will be hired in fiscal year 1988, and that it will take approximately three years to fully train them.

6. Financing Mechanism: S. 1184 provides direct spending authority, in the form of contract authority, and authorizes funding to be provided in appropriation bills. For the program that receives contract authority (grants-in-aid), this estimate shows the amount of such authority, with outlays based on the obligation ceiling assumed in this estimate. For the other programs, the estimate presents budget authority that is authorized to be appropriated and the estimated outlays that would be generated if the Congress chooses to fully fund the authorized amounts.

7. Estimated cost to State and local governments: Almost half of the funding provided by the bill is in the form of grants to state and local governments. Several provisions of the bill would affect the allocation of funds among state and local governments as well as the allowed uses of funds by grant recipients. In addition, the bill alters cost-sharing arrangements for certain types of projects.

8. Estimate comparison: None.

9. Previous CBO estimate: None.

10. Estimate prepared by: Mitchell Rosenfeld.

11. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

Regulatory Impact Statement

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported.

NUMBER OF PERSONS COVERED

This legislation extends the authorization for expenditures for airport and airway improvement programs administered by the FAA. It continues, with certain revisions, the programs established under the Airport and Airway Improvement Act of 1982, Public Law 97-248. As such, the number of persons covered should be consistent with current levels. The sole exception is the requirement that the FAA hire an additional 1,000 air traffic controllers. Given historic levels of attrition in the first year of training incoming controllers, the FAA can be expected to hire more than that

number of individuals in order to achieve by the end of fiscal year 1988 the level of air traffic controllers specified under this legislation.

ECONOMIC IMPACT

This legislation would authorize a maximum of $4.9 billion in expenditures from the Airport and Airway Trust Fund in fiscal year 1988, increasing to $5.1 billion in fiscal year 1989, and $5.6 billion in fiscal year 1990. These funds will be used largely for capital improvements. As such, because of the slow spendout rates, these funds should not have a significant effect upon the economy.

PRIVACY

None of the provisions of this legislation should affect personal privacy of individuals involved.

PAPERWORK

Overall, this legislation should not result in a significant increase in paperwork requirements. Three specific provisions, however, can be expected to result in increased paperwork. Section 11 would require the Department of Transportation to undertake a rulemaking with respect to the AIP. This is designed to ensure that in the future airport sponsors are informed as to specific sponsor assurances that will be expected of them and to establish eligibility for certain projects for funding. Such a rulemaking will result in an increased paperwork burden on the Federal Government, but will lead to increased awareness by the airports as to the requirements for acceptance of AIP grants. In addition, section 13 would require the United States Trade Representative to maintain and update a list of those foreign countries determined to be limiting opportunities for U.S. construction firms with respect to foreign airport projects, with a listing of those nations to be published annually in the Federal Register. Finally, section 15, establishing a pilot state block grant program, can be expected to result in additional record-keeping on the part of participating States. However, only those States which voluntarily undertake participation in the pilot program would be subject to this burden.

SECTION-BY-SECTION ANALYSIS

SECTION 1.—SHORT TITLE

This section states that the short title of the bill is the "Airport and Airway Capacity Expansion Act of 1987."

SECTION 2.—DECLARATION OF POLICY

This section amends section 502(a) of the Airport and Airway Improvement Act of 1982 (the Act) to declare that cargo hub airports play a critical role in the movement of air commerce and, as such, appropriate provisions should be made to facilitate the development and enhancement of such hub airports. The creation of an entitlement program for airports serving as hubs for all-cargo air carriers is designed to end an apparent oversight that has developed under current law. With this new policy statement, the Committee

is emphasizing its commitment to a cargo hub entitlement program that will enhance safety at those airports, while at the same time eliminating past inequities.

Section 2 also adds a new section 502(a)(11) declaring that airport construction and improvement projects which increase the capacity of facilities to accommodate cargo and passenger traffic, thereby increasing safety and efficiency and reducing delays, should be undertaken to the maximum extent feasible. The Committee strongly believes that given current problems related to airport capacity and passenger delays, every effort should be made to add to the physical infrastructure needed to handle safely growing air cargo and passenger traffic. Changes made to current law, which are discussed below, address this need for additional airport capacity.

SECTION 3.—DEFINITIONS

This section amends section 503(a)(2)(B), the definition of "Airport development," to include common-use, centralized cargo inspection facilities and equipment located at an airport for the exclusive purpose of inspecting air cargo, including facilities and equipment provided for or required by the Federal inspection services. This provision has been included in the bill to promote development of new or expanded cargo facilities, thus increasing the efficient handling and processing of air cargo.

The definition of "Airport development" is further amended to include the acquisition of land within an unacceptable high level noise contour and identified on a current or projected noise map determined acceptable by the Secretary. This provision is intended to make less burdensome the purchase of land greatly affected by airport noise.

Section 3 adds a new definition for "Cargo hub airports." These airports are defined as those public airports that individually receive in excess of 100 million pounds landed weight of all-cargo aircraft on an annual basis, as determined by the Secretary.

This section also redefines a "Primary airport" to mean a commercial service airport enplaning more than 10,000 passengers annually. Under current law, primary airports are defined as having .01 percent of the total number of passengers enplanned at commercial service airports, which currently is about 40,500 passengers. This provision will increase from approximately 260 to 420 the number of airports designated as primary airports. This is a change the Committee strongly believes is necessary to ensure adequate Federal funding of the busiest airports which now qualify as small commercial service airports.

Section 3 redefines "Project" to include airport projects for carrying out noise compatibility programs or parts of such programs under section 104(c)(1) of the Aviation Safety and Noise Abatement Act of 1979. The effect of this provision is to broaden this definition beyond current law which includes only "airport development" and "airport planning" as eligible projects.

This section also includes cargo hub airports in the definition of "Public-use airports."

SECTION 4.—NATIONAL AIRPORT AND AIRWAY SYSTEM PLANS

Section 4 amends 504(d) of the Act to provide for a national review by the Secretary of Defense and the Secretary of Transportation, in consultation with aviation users, concerning the impact on civil aviation of joint military/civilian use of airspace. The results of such review, together with recommendations, must be submitted to Congress within 18 months after enactment.

This report involves the designation of special-use airspace. The Committee is aware that the needs of the military for training and other purposes must be met. However, there is a concern that present methods of designating such airspace are inadequate and do not ensure that the legitimate needs of both military and civil aviation are addressed. This study is intended to bring both civilian and military airspace users together to determine ways in which greater civil use of the airspace is possible.

This section also repeals section 504(d)(3), which required the Secretary of Defense and Secretary of Transportation to submit a plan for making domestic military airports and airport facilities available for joint civil and military use within one year of enactment of the 1982 act. This report was submitted to Congress in March 1984.

SECTION 5.—AIRPORT IMPROVEMENT PROGRAM

This section amends section 505(a) of the act, relating to Airport Development and Airport Planning, to authorize funding for fiscal years 1988 through 1990 in the following amounts:

[In billions of dollars]

Fiscal year:	
1988	1.6
1989	1.7
1990	1.8

The Committee believes that these funding levels are critical to providing additional airport capacity needed to handle safely increasing levels of aircraft operations. The Committee, therefore, is committed to increasing significantly the Federal share of airport development funds. The $1.6 billion made available under this bill for AIP projects in fiscal year 1988 reflects a 60 percent increase over the current year, an amount which is in line with the capital needs of airports and well within the resources available from the Trust Fund. These funds are authorized for a three-year term, a period of time which the Committee feels will provide a sufficient timeframe for airport planning, as well as ensure greater oversight of the airport development program.

This section repeals existing section 505(c) of the Act, relating to noise abatement projects that were to be considered as eligible for airport development during fiscal year 1982. In its place, the bill creates a new section 505(c) which provides an "Authorization For Liquidating Appropriations." This new subsection is designed to ensure that funds appropriated from the Airport and Airway Trust Fund for projects under section 505 remain available until expended. This section also extends the obligational authority to make airport improvement grants under this section through September 30, 1990.

SECTION 6.—AIRWAY IMPROVEMENT PROGRAM

This section amends section 506(a) of the Act by authorizing funding for Airway Facilities and Equipment for fiscal year 1988 through 1990. Funds authorized under this section, which are outlined below, provide for acquiring, establishing, and improving air navigation facilities.

[In billions of dollars]

Fiscal year:	
1988	1.5
1989	1.5
1990	1.75

Since 1982, there has been a shortfall of funds for the NAS Plan of approximately $1.6 billion below authorized levels. This shortfall has necessitated deferral by the FAA of certain lower priority modernization and improvement projects to future years, as well as delaying deliveries of certain projects. These delaying actions have eased the problems caused by funding shortfalls, but have contributed to the increase in what will be needed in the future to complete the NAS Plan, which is badly needed to expand the use of the airways. The Committee supports the requests made by the Secretary of Transportation for significant increases in funding for FAA Facilities and Equipment. These funding levels will allow for the implementation of the NAS Plan, as well as other FAA capital needs.

It is the Committee's view that a portion of the funds authorized for FAA Facilities and Equipment should be used for the procurement of additional instrument landing systems (ILS). Lack of precision landing equipment on runways often causes delays or necessitates re-routing of flights when weather falls below minimum requirements for ceiling and visibility. For those airports which do not now have ILS's, or have ILS's only on some runways, bad weather can severely reduce the airport's capacity to handle flights. Until recently, the FAA had imposed a freeze on the installation of additional ILS systems—the freeze was designed to expedite the transition between ILS and the more sophisticated microwave landing system (MLS). However, development of MLS has proceeded much more slowly than the FAA anticipated, and in the meantime many airports have been unable to acquire precision landing equipment. It is the Committee's position that funding should be made available for additional ILS equipment where such installations will improve the safety or capacity of an airport.

Again, the Committee believes that a three-year timeframe is an appropriate period of authorization. Since the NAS Plan was initiated in 1982, there have been numerous problems, which the Committee believes must be carefully monitored to ensure that the safety and efficiency benefits predicted by the FAA are achieved in a timely fashion.

This section also amends section 506(b) of the Act by authorizing funding for Research, Engineering and Development, and Demonstrations for fiscal years 1988 through 1990 in the following amounts:

[In millions of dollars]

Fiscal year:	
1988	200
1989	200
1990	225

Of the amounts authorized under section 506(b), no less than $25 million is to be made available annually for research, engineering and development for airport capacity improvements. The Committee believes this separate allocation is critical to ensure that efforts are continued to identify new materials and procedures for expanding airport capacity. It is also consistent with the general thrust of this legislation, in that it is aimed at ensuring continued expansion of the airport system. Finally, this amount is not meant to be a ceiling on such spending, but rather a minimum the Committee believes is appropriate.

In addition, not less than $250,000 shall be made available in fiscal year 1988 for the research and development of equipment designed to provide improved access by handicapped persons to commercial aircraft. Access to commuter aircraft for handicapped persons has become a significant problem as communities are increasingly served by smaller aircraft. The Committee recognizes the need to develop a lift device for handicapped access to commuter aircraft and provides these funds for the research and development of such a device.

This section amends section 506(c)(2) of the Act to continue to impose limitations on the amount of Trust Fund revenues that may be used for FAA expenses. This section would limit that amount to no more than the amount made available for the AIP under section 505. There would be no change made to the current provision that reduces the Trust Fund share of FAA expenses by twice the amount by which appropriations for Airway Facilities and Equipment under section 506(a) fall short of the amounts authorized for that program.

The Committee remains committed to the integrity of the Airport and Airway Trust Fund as a dedicated funding source for capital improvements. As such, the amounts made available from the Trust Fund will cover an amount not greater than approximately 50 percent of FAA operational expenses, given full funding of the AIP and the Facilities and Equipment account.

Section 6 also amends section 506(d) of the Act by authorizing funds for reimbursing the National Oceanic and Atmospheric Administration for fiscal years 1988 through 1990 for the cost of providing the FAA with weather reporting services in the following amounts:

[In millions of dollars]

Fiscal year:	
1988	30
1989	30
1990	30

SECTION 7.—APPORTIONMENT OF FUNDS

This section amends section 507(a)(1)(B) of the Act by providing that for fiscal years 1988 through 1990, the passenger enplanement

formulas on which apportionments to primary airports are made shall be maintained at levels provided under current law.

This section increases the minimum amount of funds to be apportioned to primary airports annually from $200,000 to $300,000, and also increases the maximum amount allowable to such airports each year from $12.5 million to $16 million. Section 7 also changes the maximum amount of the total funds apportioned under section 507 of the Act for primary airports from 50 percent to 38 percent.

With an increasing amount of Federal airport funding, and no changes in the passenger enplanement formulas, it is possible to reduce the maximum amount to be made available to primary airports without reducing the absolute funding level for each primary airport. Given an overall funding level under this bill of $1.6 billion in fiscal year 1988, this will ensure that no primary airport will receive less in entitlement funding that it currently receives. In addition, with other changes made to the AIP program, including significant increases in discretionary set-aside programs, primary airports can be expected to be the beneficiaries of substantial increases in AIP funding under this legislation.

Section 7 further amends section 507(a) of the Act by providing that airports serving as hubs for all-cargo carriers will receive three percent of all funds made available for the AIP under section 505. This amount will be distributed by the Secretary on a pro rata basis determined by calculating the total amount of all-cargo aircraft landed weight at all qualified cargo hub airports and establishing each qualified cargo hub airport's percentage share of such total amount.

A new section 507(c) relating to "Cargo Hub Airport Calculations" is added. This new section establishes that for purposes of determining the pro rata apportionment for any fiscal year, the total all-cargo aircraft landed weight at an airport shall be based on the all-cargo aircraft landed weight for the preceding calendar year.

This new cargo hub airport entitlement program is designed to end an apparent oversight that has developed under current law. All-cargo air carriers currently pay a 5 percent freight waybill tax, which is deposited into the Airport and Airway Trust Fund. However, the airports used as hubs by these all-cargo carriers are not assured of recovering through the AIP the amount contributed to the Trust Fund from cargo operations at these airports. This is because under current law, entitlement funds are apportioned to primary airports based only on the number of passengers enplaned and discretionary funds need not be distributed to any given airport.

This change will set aside 3 percent of total AIP funds for those airports that serve as hub airports for all-cargo carriers. The Committee has established a minimum of 100 million pounds of gross landed weight by all-cargo carriers as the point of eligibility for airports to receive funds under this provision. This will have the effect of assuring some 40 airports that in the future they will receive entitlement funds to provide for the safety and capacity needs resulting from such all-cargo air service. Cargo hub airports will also remain eligible for entitlement funds based on annual passen-

ger enplanements, as well as discretionary funds awarded by the Secretary.

SECTION 8.—USE OF APPORTIONED AND DISCRETIONARY FUNDS

This section amends section 508(d) of the Act by establishing a new entitlement program within the amounts designated for reliever airports called "Primary reliever airports". It provides for annual apportionments of $300,000 from funds available under the AIP for each primary reliever airport. A primary reliever airport is newly defined as a reliever airport having the function of relieving congestion at a pacing airport, as determined by the Secretary, provided that such airport (a) is located within 50 miles of the pacing airport, has either 100,000 annual itinerant operations or 125,000 total annual operations, and has 200 based aircraft, or (b) is located more than 50 miles from a pacing airport and has 25,000 annual itinerant operations, 150,000 total annual operations, 300 based aircraft, an air traffic control tower, and a published instrument approach.

With this legislation, the Committee continues its recognition of the importance of reliever airports by maintaining the 10 percent set aside dedicated to airports designated by the FAA as relievers. However, the Committee has added a new category of primary relievers as a way to identify the busiest, most sophisticated airports in this category. These airports are also the most critical in terms of relieving capacity demands at congested hub airports.

Under the bill, these airports will receive a $300,000 annual entitlement from the 10 percent reliever set-aside. Consistent with the legislation's emphasis on capacity improvements, this provision recognizes the need of larger reliever airports to receive an annual amount that can be planned in advance. Of the approximately 260 airports designated by the FAA as relievers, some 60 airports will qualify as Primary Relievers, which will account for $18 million of the $160 million provided to all reliever airports. Primary reliever airports will remain eligible for discretionary grants from the reliver set-aside, as well as other discretionary grants awarded by the Secretary.

This section also increases the statutory minimum requirement of funding to be made available for noise abatement projects from 8 percent to 10 percent of all funds provided for the AIP under section 505. Noise remains one of the most difficult issues in aviation today. In recognition of this fact, the Committee has increased the percentage of total AIP funds to be dedicated for noise abatement projects. Because of the funding levels for AIP provided by this legislation, funding for such projects would be effectively doubled over current levels.

This section reduces, from 5.5 percent to 2 percent, the minimum requirement for funding of non-primary commercial service airports and public airports which were eligible for funds pursuant to the Airport and Airway Development Act of 1970. In light of changes made by this legislation which reduce the minimum number of enplanements needed for airports to qualify as primary airports, the number of small commerical service airports (those below 10,000 annual enplanements) is substantially reduced. The

two percent of total AIP funds provided for by this legislation guarantees continued resources for these small airports and is consistent with historical funding levels.

Section 8 also requires that in addition to the other funds authorized for the AIP under section 505, not less than $250 million in discretionary funds shall be distributed to primary airports and their relievers for improvements which increase the capacity of facilities to accommodate passenger and cargo traffic, thereby increasing safety and efficiency and reducing delays.

In awarding discretionary funds, the Secretary shall give the highest priority to those airport development plans that meet the following criteria: (1) the project will increase capacity in the aviation system, and thereby enhance safety and reduce delays; (2) actual construction or development plans have been completed; and (3) the project has received the necessary commitment of financial resources from local governments. These standards reflect the Committee's concern with recent patterns of using discretionary AIP funds for political purposes. The Secretaty is therefore urged to award discretionary grants to those airports with legitimate projects at the time they are approved by the FAA, rather than at key times in the legislative or electoral processes.

SECTION 9.—GRANT AGREEMENTS

This section amends section 512 of the Act by authorizing the Secretary to approve a project grant application and make a grant to reimburse a sponsor for airport development incurred prior to the receipt of section 505 funds by the sponsor at a large commercial service or reliever airport if certain conditions are met: the development must result in a significant enhancement of system-wide capacity; prior to beginning the development, the sponsor must have notified the Secretary of its intent to carry out the development and request reimbursement subsequent to accomplishment of the development; and before such development was begun, the sponsor must have provided the Secretary with sufficient information to enable the Secretary to assure that the development would be carried out in accordance with all applicable statutory and administrative requirements imposed on the sponsors in conjunction with projects funded under the National Environmental Policy Act of 1969.

This provision is consistent with the Committee's desire to expedite the construction of capacity-expanding airport projects. It will allow, under specified circumstances, airport construction to begin in advance of Federal funding, with later reimbursement possible. The Committee has not placed any limitations on the level of contruction in advance of such funding. However, it should be made clear that reimbursement beyond formula entitlement funds is not guaranteed and cannot be relied upon by airport sponsors.

SECTION 10.—PROJECT COSTS

This section amends section 513(b)(2) of the Act by eliminating the restrictions in current law on using funds made available under section 505 for terminal development at primary airports. Currently, a primary airport may not use more than the greater of

$200,000 or 60 percent of the sums apportioned to it for terminal development. In addition, the Federal share of terminal development is limited to 50 percent of total project costs.

These restrictions are being removed because the Committee is unaware of any abuse of Federal funds allocated for terminal development. In any event, under this legislation current restrictions limiting Federal funding to construction or improvement of public use, nonrevenue-producing areas are continued. Prior to using funds for such development, each sponsor must continue to certify to the FAA that it has fulfilled every FAA requirement for safety and security equipment. Finally, in making this change, the Committee expects the FAA, in establishing implementing regulations under this section, to preclude expenditures for extraneous items, such as artwork for airport terminals.

SECTION 11.—GENERAL POWERS

This section amends section 519 of the Act by requiring the Secretary of Transportation to propose implementing regulations with respect to the airport grant program, and further requires that such regulations become final only after public comments have been received, but no later than one year after enactment of this legislation.

This provision is intended to provide the framework for the FAA to articulate publicly what it expects of airport sponsors prior to their receiving Federal AIP funds. A number of such sponsor assurances have been established by statute. Others, however, are developed by the FAA and under current law there is little, if any, advance notice given to airports and their users of specific requirements they are expected to meet. By directing this rulemaking process, the Committee is requiring the FAA to make public such changes in the airport grant program and to receive comment on those proposals before their implementation.

SECTION 12.—EXPLOSIVE DETECTION K–9 TEAMS

This section amends section 529 of the Act to authorize, as provided for in current law, not more than $150,000 nor less than $130,000 for fiscal years 1988 through 1990 for the Explosive Detection K–9 Team Training Program for the purpose of detecting explosives at airports and aboard aircraft.

SECTION 13.—LIMITATIONS OF FOREIGN AIRPORT CONSTRUCTION

This section prohibits the use of any funds provided under this legislation for any project which utilizes products or services of a foreign country, provided such foreign country (a) denies fair and equitable market opportunities for products and supplies of the United States in procurement, or (b) denies fair and equitable market opportunities for U.S. bidders for construction projects that cost more than $500,000 and are funded in whole or in part by the government of such foreign country.

This restriction will not apply to the use of a foreign product or service in a project if the Secretary determines that (a) it would not be in the public interest; (b) the foreign product or service is not produced or otherwise offered in the United States; or (c) the exclu-

sion of such foreign product or service would increase the cost of the overall project by more than 20 percent.

The United States Trade Representative is required to maintain and update continually a list of foreign countries determined to be limiting fair and equitable opportunities, as outlined in this section. The United States Trade Representative is required to publish annually the entire list in the Federal Register, as well as any modifications that are made between such annual publications.

This provision is identical to S. 764, legislation introduced earlier this year by Senator Murkowski. The Committee has included it in the present bill because of a concern that U.S. firms are not receiving the same opportunities in foreign nations to compete for airport construction projects as are being afforded foreign firms in the United States. In approving this measure, the Committee urges the United States Trade Representative to work closely with the Department of Transportation and the FAA to ensure all parties are aware of actions being taken by each agency.

SECTION 14.—CONTRACTING FOR ENGINEERING AND DESIGN SERVICES

This section requires that each contract or subcontract for program management, construction management, planning studies, feasibility studies, preliminary engineering, design, architectural, engineering, surveying, mapping or related services with respect to a project or program authorized, reauthorized or otherwise funded under this Act, shall be awarded in the same manner as the selection procedures in title IX of the Federal Property and Administrative Services Act of 1949, as of the date of enactment of this Act, or an equivalent qualifications-based requirement prescribed for or by the procuring agency.

This section extends the requirements of the Qualifications-Based Selection Law of 1972 (P.L. 92-582), better known as the "Brooks Act," relating to contracting for architectural-engineering and related services, to AIP-eligible airports. Currently, the Brooks Act applies only to direct Federal procurement and other grant programs to which Congress has extended its coverage, such as the recently-approved highway and mass transit authorization legislation. At present, this requirement does not extend to AIP projects. By extending the qualifications-based selection requirement for architectural, engineering, and related services to AIP-funded airport projects, the Committee believes that the total life-cycle cost of most airport projects will be lower, and will result in better overall quality. This section does not apply, however, to the construction phase of AIP projects.

SECTION 15.—STATE BLOCK GRANT PILOT PROGRAM

This section requires that not later than 180 days after enactment of this legislation, the Secretary shall promulgate regulations to implement a State Block Grant pilot program, to become effective on October 1, 1989, and to expire on September 30, 1991. These regulations shall allow the Secretary to designate not more than five qualified States to take over administrative responsibility for all airport grant funding under this legislation, except for airports designated as primary airports.

States designated to participate in this program shall be selected on the basis of applications submitted to the Secretary. States so selected must be deemed by the Secretary 1) to have an agency or organization capable of effectively administering the block grant; 2) to use a satisfactory airport system planning process; 3) to use a programming process acceptable to the Secretary; 4) to have agreed to comply with Federal procedural and other standard requirements for administering the block grant; and 5) to have agreed to provide the FAA with program information, as required.

Before the planning and programming processes of any State are approved, the Secretary shall, in conjunction with the FAA, ensure that such processes will provide for meeting critical safety and security needs and that the programming process will ensure that the needs of the national airport system will be addressed in deciding which projects to fund.

The Secretary shall conduct an ongoing review of the program and, not later than 90 days before its scheduled termination, report to the Congress the results of such review, together with recommendations for further action relating to the program.

In this regard, the Committee is concerned that, because the administration had earlier proposed a State block grant program for all small commercial service and general aviation airports nationwide, the FAA has begun reducing staffing levels in its airport district offices. Airports rely upon these district office personnel to examine and approve grant applications. In this light, the Committee directs the FAA to take the necessary steps to ensure that these positions are once again fully staffed at the authorized levels, a move which is necessary to ensure that the Federal program is responsive to the needs of localities.

SECTION 16.—CONTRACT TOWER PROGRAM

This section makes permanent the low activity (VFR) Level I air traffic control tower contract program established pursuant to section 526 of the Act.

Following the air traffic controller strike in 1981, the FAA closed a number of low activity control towers in order to move personnel to other more essential activities. To reinstate service at those airports, the FAA began to contract with local governmental jurisdictions for the operation of these low activity towers. These local governments have, in turn, used their own employees or contracted with private firms for the operation of the towers.

In recent months, the Department of Transportation and the FAA have exhibited some reluctance to continue this program. The Committee believes that the contract tower program has provided significant benefits in terms of aviation safety, as well as economic development for participating communities, and believes that the 14 towers currently being operated under this program should remain in operation. In addition, the Committee expects the FAA to make every effort to re-open the remaining 16 temporarily closed low activity air traffic control towers.

SECTION 17.—AIR TRAFFIC CONTROLLER STAFFING

This section requires the FAA to hire not less than 1,000 air traffic controllers in addition to the total air traffic controller work force specified in Public Law 99-591. The additional air traffic controllers hired are not to include air traffic assistants.

The Committee believes that this is a critical provision for the safe operation of the air transportation system. Last year, Congress mandated that the FAA have 15,000 air traffic controllers by September 30, 1987. Since that time, there been calls for short-term airline traffic restrictions, in part in response to airspace and terminal congestion. The need for additional controllers is, therefore, of paramount importance. With 16,000 controllers, the FAA will be approaching the staffing levels in place prior to the 1981 air traffic controllers strike.

The Committee realizes that increased numbers of air traffic controllers alone will not provide the final solution for the various problems experienced by air traffic controllers. The Committee therefore urges the FAA to undertake every effort possible to improve its training programs for controllers and supervisory personnel, in order to ensure that as traffic continues to increase (as forecast), controller staffing will be adequate to meet the demands imposed by this additional traffic.

SECTION 18.—NOISE ABATEMENT PROJECTS

This section states the intention of the Congress that the authority of the Secretary of Transportation to make grants under section 104(c)(2) of the Aviation Safety and Noise Abatement Act of 1979 to airport operators to implement noise compatibility programs that were developed prior to the promulgation of regulations under such Act (14 C.F.R. Part 150), if the Secretary determines that those programs would further the purposes of that Act, shall continue until such programs are fully implemented, notwithstanding any other provision of law or any rule or regulation.

In carrying our the intent specified under this subsection, grants may continue to be made under section 104(c)(2) of the Aviation Safety and Noise Abatement Act of 1979 for noise compatibility programs or projects previously approved under such section if 1) the operator of the airport involved submits updated noise exposure contours, as required by the Secretary; and 2) the Secretary determines that such programs or projects are compatible with the purposes of such Act.

This provision is intended to benefit those communities which developed airport noise compatibility programs before the FAA's promulgation of the Part 150 regulation, and which have previously received funding under section 104(c)(2) of the Aviation Safety and Noise Abatement Act of 1979. This provision recognizes that communities which have already begun implementation of FAA-approved noise compatibility programs should be permitted to continue these projects, and should not be required to initiate Part 150 studies.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

The Airport and Airway Improvement Act of 1982

Section 502 of that Act

SEC. 502. DECLARATION OF POLICY.

(a) IN GENERAL.—The Congress hereby finds and declares that—

(1)–(6) * * *

(7) cargo hub airports play a critical role in the movement of commerce through the airport and airway system, and appropriate provisions should be made to facilitate the development and enhancement of such hub airports;

[7**]***(8)* aviation facilities should be constructed and operated with due regard to minimizing current and projected noise impacts on nearby communities;

[8**]***(9)* the Federal administrative requirements placed upon airport sponsors can be reduced and simplified through the use of a single project application to cover all airport improvement projects contained in the airport's annual expenditure program; **[**and**]**

[9**]***(10)* it is in the national interest to develop in metropolitanareas an integrated system of airports designed to provide expeditious access and maximum safety**[**.**]***; and*

(11) airport construction and improvement projects which increase the capacity of facilities to accommodate passenger and cargo traffic, thereby increasing safety and efficiency and reducing delays, should be undertaken to the maximum feasible extent.

(b) * * *

Section 503 of that Act

SEC. 503. DEFINITIONS.

(a) IN GENERAL.—As used in this title—

(1) * * *

(2) "Airport development" means any of the following activities, if undertaken by the sponsor, owner or operator of a public-use airport:

(A) any work involved in constructing, reconstructing, repairing, or improving a public-use airport or portion thereof, including—

(i) the removal, lowering, relocation, and marking and lighting of airport hazards; and

(ii) the preparation of plans and specifications, including field investigations incidental thereto;

(B) any acquisition or installation at or by a public-use airport of—

(i) navigation and other aids (including, but not limited to, precision approach systems) used by aircraft for landing at or taking off from such airport, including any necessary site preparation thereby required;

(ii) safety or security equipment required by the Secretary by rule or regulation for the safety or security of persons and property at such airport, or specifically approved by the Secretary as contributing significantly to the safety or security of persons and property at such airport;

(iii) snow removal equipment;

(iv) aviation-related weather reporting equipment; [or]

(v) equipment to measure runway surface friction; [and]

(vi) common-use, centralized cargo inspection facilities and equipment located at an airport for the exclusive purpose of inspecting air cargo, including facilities and equipment provided for or required by the Federal inspection services; and

(C) any acquisition of land or of an interest therein, or of any easement through or other interest in airspace, including land for future airport development, which is necessary to permit any airport development described in subparagraph (A) or (B) of this paragraph or to remove, mitigate, prevent, or limit the establishment of airport hazards *or any land included within an unacceptably high level noise contour and identified on a current or projected noise contour map determined acceptable by the Secretary.*

(3)–(4) * * *

(5) "Cargo hub airport" means a public airport that receives in excess of 100 million pounds landed weight of all-cargo aircraft on an annual basis, as determined by the Secretary.

[(5)]*(6)* "Commercial service airport" means a public airport which is determined by the Secretary to enplane annually 2,500 or more passengers and receive scheduled passenger service of aircraft.

[(6)]*(7)* "Government aircraft" means aircraft owned and operated by the United States.

[(7)]*(8)* "Integrated airport system planning" means the initial as well as continuing development for planning purposes of information and guidance to determine the extent, type, nature, location, and timing of airport development needed in a specific area to establish a viable, balanced, and integrated system of public-use airports. It includes identification of system needs, development of estimates of systemwide development costs, and the conduct of such studies, surveys, and other planning actions, including those related to airport access, as may be necessary to determine the short-, intermediate-, and long-range aeronautical demands required to be met by a particular system of airports. It also includes the establishment by a State of standards, other than standards for safety of ap-

proaches, for airport development at public-use airports which are not primary airports.

[(8)]*(9)* "landing area" means that area used or intended to be used for the landing, takeoff, or surface maneuvering of aircraft.

[(9)]*(10)* "Passengers enplaned" means domestic, territorial, and international revenue passenger enplanements in the States in scheduled and nonscheduled service of aircraft in intrastate, interstate, and foreign commerce as shall be determined by the Secretary pursuant to such regulations as the Secretary may prescribe.

[(10)]*(11)* "Planning agency" means any planning agency designated by the Secretary which is authorized by the laws of the State or States or political subdivisions concerned to engage is areawide planning for the areas in which assistance under this title is to be used.

[(11)]*(12)* "Primary airport" means a commercial service airport which is determined by the Secretary to have [.01 percent or more of the total number of passengers enplaned annually at all commercial service airports.] *more than 10,000 passengers enplaned annually.*

[(12)]*(13)* "Project" means a project (or separate projects submitted together) for the accomplishment of airport [development or] *development,* airport planning *or for carrying out noise compatibility programs or parts of such programs under section 104(c)(1) of the Aviation Safety and Noise Abatement Act of 1979 (49 App. U.S.C. 2104(c)(1)),* including the combined submission of all projects which are to be undertaken at an airport in a fiscal year.

[(13)]*(14)* "Project costs" means any costs involved in accomplishing a project.

[(14)]*(15)* "Project grant" means a grant of funds by the Secretary to a sponsor for the accomplishment of one or more projects.

[(15)]*(16)* "Public agency" means a State or any agency of a State, a municipality or other political subdivision of a State, a tax-supported organization, or an Indian tribe or pueblo.

[(16)]*(17)* "Public airport" means any airport which is used or to be used for public purposes, under the control of a public agency, the landing area of which is publicly owned.

[(17)]*(18)* "Public-use airport" means—

(A) any public airport,

(B) any cargo hub airport,

[(B)]*(C)* any privately owned reliever airport, and

[(C)]*(D)* any privately owned airport which is determined by the Secretary to enplane annually 2,500 or more passengers and receive scheduled passenger service of aircraft, which is used or to be used for public purposes.

[(18)]*(19)* "Reliever airport" means an airport designated by the Secretary as having the function of relieving congestion at a commercial service airport and providing more general aviation access to the overall community.

[(19)]*(20)* "Reliever heliport" means a heliport designated by the Secretary as having the function of relieving congestion

at a commercial service airport, by means of diverting potential fixed-wing enplaned passengers to helicopter carriers.

[(20)] *(21)* "Secretary" means the Secretary of Transportation.

[(21)] *(22)* "Sponsor" means (A) any public agency which, either individually or jointly with one or more other public agencies, submits to the Secretary, in accordance with this title, an application for financial assistance, and (B) any private owner of a public-use airport who submits to the Secretary, in accordance with this title, an application for financial assistance for such airport.

[(22)] *(23)* "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and Guam.

[(23)] *(24)* "Trust Fund" means the Airport and Airway Trust Fund established by section 9502 of the Internal Revenue Code of 1954.

[(24)] *(25)* "United States share" means that portion of the project costs of projects for airport development or airport planning approved pursuant to section 509 of this title which is to be paid from funds made available for the purpose of this title.

(b) * * *

Section 504 of that Act

SEC. 504. NATIONAL AIRPORT AND AIRWAY SYSTEM PLANS.

(a)–(c) * * * *

(d) CONSULTATION WITH DEPARTMENT OF DEFENSE.—(1) * * *

[(2) Not later than 180 days after the date of enactment of this title, the Comptroller General Shall submit to the Congress an evaluation of the feasibility of making domestic military airports and airport facilities available for joint civil and military use to the maximum extent compatible with national defense requirements. With respect to those military airports determined to be most feasible for joint civil and military use, such evaluation shall include an estimate of the costs and the development requirements involved in making such airports for joint civil and military use.]

(2)(A) The Secretary and the Secretary of Defense in consultation with aviation users, shall jointly conduct a national review of the need and utilization of special use airspace with a view to determining its impact on civil aviation operations.

(B) Within eighteen months after the date of enactment of the Airport and Airway Capacity Expansion Act of 1987, the Secretary and the Secretary of Defense shall report to the Congress the results of such review, together with their recommendations.

[(3) Not later than 1 year after the date of enactment of this title, the Secretary of Defense and the Secretary of Transportation shall submit to the Congress a plan for making domestic military airport facilities available for joint civil and military use to the maximum extent compatible with national requirements. The plan

shall recommend public-sector civil sponsors in the case of each joint use proposed in the plan.]

Section 505 of that Act

SEC. 505. AIRPORT IMPROVEMENT PROGRAM.

(a) AIRPORT DEVELOPMENT AND AIRPORT PLANNING.—*(1)* In order to maintain a safe and efficient nationwide system of public-use airports to meet the present and future needs of civil aeronautics, the Secretary is authorized to make grants from the Trust Fund for airport development and airport planning by project grants in accordance with the provisions of this title. The aggregate amounts which shall be available after September 30, 1981, to the Secretary for such grants and for grants for airport noise compatibility planning under section 103(b) of the Aviation Safety and Noise Abatement Act of 1979 and for carrying out noise compatibility programs or parts thereof under section 104(c) of such Act shall be $450,000,000 for fiscal year 1982; $1,250,000,000, of which $2000,000,000 shall be credited to the supplementary discretionary fund established by paragraph (3)(B) of section 507 (a) of this title ending before Oct. 1, 1983; '$2,243,500,000, or which $400,000,000 shall be credited to such fund' for the fiscal years ending before October 1, 1984; '$3,230,500,000, of which $475,000,000 shall be credited to such fund' for the fiscal years ending before October 1, 1985; $4,247,500,000, of which $475,000,000 shall be credited to such fund for the fiscal years ending before October 1, 1986; and $5,264,700,000 of which $475,000,000 shall be credited to such fund for the fiscal years ending before October 1, 1987. Those amounts credited to the supplementary discretionary fund pursuant to this subsection shall not be subject to any of the apportionments or distributions set forth in sections 507(a)(1), (2), (3)(A), or 508(d), of this title.

(2) The aggregate amounts which shall be available after September 30, 1987, to the Secretary for such grants and for grants for airport noise compatibility under tha Aviation Safety and Noise Abatement Act of 1979 (49 App. U.S.C. 2101 et seq.) shall be $6,716,700,000 for fiscal years ending before October 1, 1988; $8,416,700,000 for fiscal years ending before October 1, 1989; and $10,216,700,000 for fiscal years ending before October 1, 1990.

(b) OBLIGATION AUTHORITY.—(1) The Secretary is authorized to incur obligations to make grants from funds made available under subsection (a) of this section, and such authority shall exist with respect to funds available for the making of grants for any fiscal year or part thereof pursuant to subsection (a) immediately after such funds are apportioned pursuant to section 507(a) of this title. No such obligation shall be incurred by the Secretary after [September 30, 1987,] *September 30, 1990, except that nothing in this section shall preclude the obligation by grant agreement of apportioned funds which remain available pursuant to section 508(a) of this title after such date.*

(2) * * *

[(c) NOISE ABATEMENT PROJECTS TO BE CONSIDERED AS AIRPORT DEVELOPMENT FOR FISCAL YEAR 1982.—For purposes of amounts apportioned for fiscal year 1982, airport development shall be consid-

ered to include any of the following activities, if undertaken by the sponsor, owner, or operator of a public-use airport:

[(1) any acquisition or installation of the following items for improving noise compatibility at a public-use airport:

[(A) noise suppressing equipment, physical barriers, or landscaping, for the purpose of diminishing the effect of aircraft noise on any area adjacent to such airport; and

[(B) land, including land associated with future airport development, or any interest therein, or any easement through or other interest in airspace, necessary to insure that such land is used only for purposes which are compatible with the noise levels attributable to the operation of such airport; and

[(2) any project to carry out an approved airport noise compatibility program, or part thereof, approved by the Secretary pursuant to section 104(b) of the Aviation Safety and Noise Abatement Act of 1979.]

(c) AUTHORIZATION FOR LIQUIDATING APPROPRIATIONS.—There are to be appropriated from the Trust Fund, to remain available until expended, such sums as are necessary to liquidate obligations incurred under this section.

Section 506 of that Act

SEC. 506. AIRWAY IMPROVEMENT PROGRAM.

(a) AIRWAY FACILITIES AND EQUIPMENT.—*(1)* For the purposes of acquiring, establishing, and improving air navigation facilities under section 307(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(b)), there is authorized to be appropriated from the Trust Fund for fiscal years beginning after September 30, 1981, aggregate amounts not to exceed $261,000,000 for fiscal year 1982; $986,000,000 for the fiscal years ending before October 1, 1983; $2,379,000,000 for the fiscal years ending before October 1, 1984; $3,786,000,000 for the fiscal years ending before October 1, 1985; $5,163,000,000 for the fiscal years ending before October 1, 1986; [and] $6,327,000,000 for the fiscal years ending before October 1, [1987.] *1987; $7,827,000,000 for the fiscal years ending before October 1, 1988; $9,327,000,000 for the fiscal years ending before October 1, 1989; and $11,077,000,000 for the fiscal years ending before October 1, 1990.* Amounts appropriated under the authorizations in this subsection shall remain available until expended.

(2) * * * *

(b) RESEARCH, ENGINEERING AND DEVELOPMENT, AND DEMONSTRATIONS.—The Secretary is authorized to carry out under section 312 (49 U.S.C. 1353) of the Federal Aviation Act of 1958 such demonstration projects as the Secretary determines necessary in connection with research and development activities under section 312. For research, engineering and development, and demonstration projects and activities under section 312 [49 USCS § 1353], there is authorized to be appropriated from the Trust Fund $72,000,000 for fiscal year 1982; $134,000,000 for fiscal year 1983 (of which not more than $16,800,000 is authorized to be appropriated for facilities, engineering and development); $286,000,000 for fiscal year 1984 (of which not more than $24,700,000 is authorized to be appro-

priated for facilities, engineering and development); $269,000,000 for fiscal year 1985 (of which not more than $23,100,000 is authorized to be appropriated for facilities, engineering and development); $215,000,000 for fiscal year 1986 (of which not more than $22,700,000 is authorized to be appropriated for facilities, engineering and development); [and] $193,000,000 for fiscal year 1987 (of which not more than $22,000,000 is authorized to be appropriated for facilities, engineering and development)[.]; *$200,000,000 for fiscal year 1988 (of which not less than $250,000 shall be made available for equipment designed to provide improved access by handicapped persons to commercial aircraft); $200,000,000 for fiscal year 1989; and $225,000,000 for fiscal year 1990, of which not less than $25,000,000 in each such year is authorized to be appropriated for research, engineering and development regarding airport capacity improvements.* Amounts appropriated under the authorizations in this subsection shall remain available until expended.

(c) OTHER EXPENSES.—(1) * * *

(2) The amount appropriated from the Trust Fund for the purposes of clauses (A) and (B) of paragraph (1) of this subsection for fiscal year 1982 may not exceed $800,000,000 and for any fiscal year beginning after September 30, 1982, and ending before October 1, 1987, may not exceed the amount made available for purposes of section 505 for that fiscal year multiplied by a factor equal to 1.83 in the case of fiscal year 1983; 1.25 in the case of fiscal year 1984; 1.28 in the case of fiscal year 1985; 1.28 in the case of fiscal year 1986; [and] 1.34 in the case of fiscal year [1987.] *1987; and an amount not to exceed the amount made available for purposes of section 505 of this title for fiscal years 1988 through 1990.* The amount authorized to be appropriated from the Trust Fund under this paragraph for any fiscal year shall be reduced by an amount equal to two times the excess, if any, of (A) the portion of the amount authorized to be appropriated under subsection (a) of this section for such fiscal year which was not authorized to be appropriated for any previous fiscal year, over (B) the amount appropriated under such subsection for such fiscal year.

(d) WEATHER SERVICES.—The Secretary is authorized to reimburse the National Oceanic and Atmospheric Administration from the funds authorized in subsection (c) for fiscal years beginning after September 30, 1982, for the cost of providing the Federal Aviation Administration with weather reporting services. Expenditures for the purposes of carrying out this subsection shall be limited to $26,700,000 for fiscal year 1983; $28,569,000 for fiscal year 1984; $30,569,000 for fiscal year 1985; $32,709,000 for fiscal year 1986; [and] $34,998,000 for fiscal year [1987.] *1987; $30,000,000 for fiscal year 1988; $30,000,000 for fiscal year 1989; and $30,000,000 for fiscal year 1990.*

(e) PRESERVATION OF FUNDS AND PRIORITY FOR AIRPORT AND AIRWAY PROGRAMS.—(1)–(4) * * *

(5) No provision of law shall be construed as authorizing the Secretary to obligate or expend any amounts appropriated from the Trust Fund for the purposes described in subsection (c) in any fiscal year after [September 30, 1987] *September 30, 1990,* unless the provision expressely amends the provisions of and the formulas in subsection (c) of this section.

(f) * * * *

Section 507 of that Act

SEC. 507. APPORTIONMENT OF FUNDS.

(a) APPORTIONMENT.—On the first day of each fiscal year for which any amount is authorized to be obligated for the purposes of section 505 of this title, the amount made available for that year under such section and not previously apportioned shall be apportioned by the Secretary as follows:

[(1) PRIMARY AIRPORTS.—] *(1) PRIMARY AIRPORTS: PASSENGER ENPLANEMENTS.—*

(A) * * * *

(B) In each of the fiscal years 1984 through [1987,] *1990,* the Secretary shall apportion an amount to the sponsor of each primary airport in addition to whatever amount is apportioned to such airport under the formula set forth in subparagraph (A). The additional apportionment shall be calculated by determining the amount such airport is to be apportioned under the formula in subparagraph (A) and then increasing that amount by 10 percent for fiscal year 1984, 20 percent for fiscal year 1985, 25 percent for fiscal year 1986, [and] 30 percent for fiscal year [1987.] *1987, and 30 percent for each of the fiscal years 1988 through 1990.*

(C) The Secretary shall not apportion less than [$200,000] *$300,000* nor more than [$12,500,000] *$16,000,000* under this paragraph to an airport sponsor for any primary airport for any fiscal year.

(D) In no event shall the total amount of all apportionments under this paragraph for any fiscal year exceed [50 percent] *38 percent* of the amount authorized to be obligated for such fiscal year for the purposes of section 505 of this title. In any case in which an apportionment would be reduced by the preceding sentence, the Secretary shall for such fiscal year reduce the apportionment to each sponsor of a primary airport under this paragraph proportionately so that such [50 percent] *38 percent* amount is achieved.

(E) If any Act of Congress has the effect of limiting or reducing the amount authorized or available to be obligated for any fiscal year for the purposes of section 505 of this title, the total amount of all apportionments under this paragraph for such fiscal year shall not exceed [50 percent] *38 percent* of such limited or reduced amount. In any case in which an apportionment would be reduced by the preceeding sentence, the Secretary after complying with the provisions of paragraph (3)(B) of this subsection, shall for such fiscal year reduce the apportionment to each sponsor of a primary airport under this paragraph proportionately so that such [50 percent] *38 percent* amount is achieved.

(2) PRIMARY AIRPORTS: CARGO HUB AIRPORTS APPORTIONMENT.—In addition to funds to which any public airport may be entitled under any other provision of this title, and notwith-

standing any other limitation on funding, a 3 percent of the total amount authorized or available under section 505 of this title shall be set aside for distribution to cargo hub airports. Such distribution will be made by the Secretary on a pro rata basis, determined by calculating the total amount of all-cargo aircraft landed weight at all qualified cargo hub airports and establishing each qualified cargo hub airport's percentage share of such total amount. Each qualified cargo hub airport shall be entitled to that percentage of the total 3 percent share of the total amount authorized or available under section 505 of this title for any fiscal year.

[(2)]*(3)* APPORTIONMENTS TO STATES.—To the States, there shall be apportioned for each of the fiscal years beginning after September 30, 1981, and ending before [October 1, 1987] *October 1, 1990,* 12 percent of the amount made available under section 505 for such fiscal year, as follows.

(A) INSULAR AREAS.—For airports other than primary airports, one percent of such amounts to Guam, American Samoa, the Government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands.

(B) STATES.—For airports other than primary airports and other than airports described in section 508(d)(3), one-half of the remaining 99 per centum to the States (other than those to which subparagraph (A) of this paragraph applies) in the proportion which the population of each such State bears to the total population of all such States and one-half of the remaining 99 per centum to the States (other than those to which subparagraph (A) of this paragraph applies) in the proportion which the area of each such State bears to the total area of all such States. As used in this paragraph, the term "population" means the population according to the latest decennial census of the United States and the term "area" included both land and water.

[(3)]*(4)*(A) DISCRETIONARY FUND.—Any amounts not apportioned under paragraphs (1), (2), [and (4)] *(3), and (5)* of this subsection shall constitute a discretionary fund to be distributed at the discretion of the Secretary (subject to the limitations set forth in section 508(d) of this title) for such grants for any of the purposes for which funds are made available under section 505 as the Secretary considers most appropriate for carrying out the purposes of this title.

(B) There is hereby established a supplementary discretionary fund consisting of those amounts to be credited to such fund pursuant to section 505(a) of this title. Amounts in the supplementary discretionary fund shall be distributed by the Secretary in the same manner and for the same purposes as funds distributed pursuant to subparagraph (A) except that (i) such amounts may only be distributed for projects involving construction, reconstruction, or repair begun after the data of enactment of this subparagraph and not to pay for any such work begun before such date, and (ii) the Secretary shall give preference to those projects that increase the safety or capacity

of the airport receiving such funds. If any Act of Congress has the effect of limiting or reducing the amount authorized or available to be obligated for any fiscal year for the purposes of section 505, the Secretary shall implement such limitation or reduction by deferring the distribution of a corresponding amount of supplementary discretionary funds until a subsequent fiscal year. In no event may the Secretary reduce any other apportionment or distribution under this section in order to comply with any such Congressional limitation or reduction unless all of the supplementary discretionary funds available for distribution in such year have been deferred until a subsequent fiscal year.

[(4)] *(5)* APPORTIONMENT OF FUNDS.—Notwithstanding any other provision of this subsection for any fiscal year for which funds are made available under section 505 of this title the Secretary may apportion funds for airports in the State of Alaska in the same manner in which funds were apportioned in fiscal year 1980 under section 15(a) of the Airport and Airway Development Act of 1970. In no event shall the total amount apportioned for such airports under this paragraph for any fiscal year be less than the minimum amounts that were required to be apportioned to such airports in fiscal year 1980 under section 15(a)(3)(A) of such Act. In no event shall a primary airport be apportioned less under this paragraph for a fiscal year than it would be apportioned for such fiscal year under paragraph (1) of this subsection. In no event shall the amount of funds apportioned under this paragraph which are expended at any commercial service airport in the State of Alaska during a fiscal year exceed 110 percent of the amount apportioned to such airport for such fiscal year. Nothing in this paragraph shall be construed as prohibiting the Secretary from making additional project grants to airports in the State of Alaska from the discretionary fund established in [paragraph (3)] *paragraph (4)* of this subsection.

(b) * * *

(c) CARGO HUB AIRPORT CALCULATIONS.—For purposes of determining the pro rata apportionment for any fiscal year under subsection (a)(2) of this section, the total all-cargo aircraft landed weight at an airport shall be based on the cargo aircraft landed weight for the preceding calendar year.

Section 508 of that Act

SEC. 508. USE OF APPORTIONED AND DISCRETIONARY FUNDS: MISCELLANEOUS CONDITIONS.

(a) DURATION OF AVAILABILITY OF APPORTIONED AMOUNTS.—Each amount apportioned under paragraph (1), (2), [or (4)] *(3), or (5)* of section 507(a) of this title shall be available for obligation under such apportionment during the fiscal year for which it was first authorized to be obligated and the two fiscal years immediately following. Any amount so apportioned which has not been obligated within such time shall be added to the discretionary fund established by section [507(a)(3)] *507(a)(4)* of this title.

(b) * * * *

(c) STATES.—Funds apportioned to a State under section [507(a)(2)] *507(a)(3)* shall be available for any of the purposes for which funds are made available under section 505 to airports described in section [507(a)(2)] *507(a)(3)* which are located in such State. Each sponsor of such an airport may apply to the Secretary for grants from funds apportioned to such State.

(d) GENERAL LIMITATIONS.—(1) Not less than 10 percent of the funds made available under section 505 for any fiscal year shall be distributed to reliever airports during such fiscal year. *Of such amount, $300,000 shall annually be apportioned to each primary reliever airport and be available for obligation in the fiscal year during which it was first authorized to be obligated and the succeeding fiscal year. For purposes of this paragraph, a "primary reliever airport" is a reliever airport having the function of relieving congestion at a pacing airport, as determined by the Secretary, which (A) if located within 50 miles of a pacing airport, has 100,000 annual itinerant operations or 125,000 total annual operations and has 200 based aircraft, or (B) if located more than 50 miles from a pacing airport, has 25,000 annual itinerant operations, 150,000 total annual operations, 300 based aircraft, an air traffic control tower, and a published instrument approach.*

(2) Not less than [8 percent] *10 percent* of the funds made available under section 505 for any fiscal year shall be obligated during such fiscal year [(A)] for airport noise compatibility planning under section 103(b) of the Aviation Safety and Noise Abatement Act of 1979 and for carrying out noise compatibility programs or parts thereof under section [104(c) of such Act, and (B) in the case of fiscal year 1982, for any of the purposes set forth in section 505(c) of this title] *section 104(c)(1) of such Act.*

(3) Not less than [5.5 percent] *2 percent* of the funds made available under section 505 for any fiscal year shall be distributed during such fiscal year to—

(A) commercial service airports which are not primary airports,

(B) public airports (other than commercial service airports) which were eligible for Federal assistance from funds apportioned under section 15(a)(3) of the Airport and Airway Development Act of 1970, and to which section 15(a)(3)(A)(I) of such Act applied during fiscal year 1981, and

(C) public airports (other than commercial service airports) which were eligible for Federal assistance from funds apportioned under section 15(a)(3) of the Airport and Airway Development Act of 1970, and to which section 15(a)(3)(A)(II) of such Act applied during fiscal year 1981.

(4) * * *

No amounts obligated from the funds apportioned under [paragraph (4)] *paragraph (5)* of section 507(a) shall be counted as part of the [5.5 percent] *2 percent* required to be distributed under this paragraph for each fiscal year.

(5) Not less than $250,000,000 shall be made available under section 505 for any fiscal year to be distributed to primary airports and their reliever airports for improvements which increase the capacity of facilities to accommodate passenger and cargo traffic, thereby increasing safety and efficiency and reducing delays.

[(5)] *(6)* If the Secretary determines that he will not be able to distribute the amount of funds required to be distributed under paragraph (1), (2), (3), or (4) of this subsection for any fiscal year because the number of qualified applications submitted in compliance with this title is insufficient to meet such amount, the portion of such amount the Secretary determines will not be distributed shall be available for obligations during such fiscal year for other airports and for other purposes authorized by section 505 of this title.

(e) * * *

Section 509 of that Act

SEC. 509. SUBMISSION AND APPROVAL OF PROJECT GRANT APPLICATIONS.

(a)–(d) * * *

(e) REQUIREMENT OF NOTICE.—Each sponsor to which funds are apportioned under section [507(a)(1)] *507(a)(1) and (2)* of this title shall notify the Secretary, by such time and in a form containing such information as the Secretary may prescribe, of the fiscal year in which it intends to apply, by project grant application, for such funds. If a sponsor does not provide such notification, the Secretary may defer approval of any application for such funds until the fiscal year immediately following the fiscal year in which such application is submitted.

Section 512 of that Act

SEC. 512. GRANT AGREEMENTS.

(a) OFFER AND ACCEPTANCE.—Upon approving a project grant application, the Secretary, on behalf of the United States, shall transmit to the sponsor or sponsors of the application an offer to make a grant for the United States share of allowable project costs. An offer shall be made upon such terms and conditions as the Secretary considers necessary to meet the requirements of this title and any regulations prescribed thereunder. Each offer shall state a definite amount as the maximum obligation of the United States payable from funds authorized by this title, and shall stipulate the obligations to be assumed by the sponsor or sponsors. In any case where the Secretary approves a project grant application for a project which will not be completed in one fiscal year, the offer shall, upon request of the sponsor provide for the obligation of funds apportioned or to be apportioned to the sponsor pursuant to section [507(a)(1)] *507(a)(1) and (2)* of this title for such fiscal years (including future fiscal years) as may be necessary to pay the United States share of the cost of such project. If and when an offer is accepted in writing by the sponsor, the offer and acceptance shall comprise an agreement constituting an obligation of the United States and of the sponsor. Unless and until an agreement has been executed, the United States may not pay, nor be obligated to pay, any portion of the costs which have been or may be incurred.

(b) AIRPORT DEVELOPMENT ALREADY ACCOMPLISHED.—The Secretary may approve a project grant application and make a grant to reimburse a sponsor for airport development already accomplished

by the sponsor (including project formulation costs) at a primary of reliever airport if—

(1) the airport development for which reimbursement is requested will result in a significant enhancement of systemwide capacity;

(2) before the development was begun, the sponsor notified the Secretary of its intent to carry out the development and request reimbursement subsequent to accomplishment of the development; and

(3) before the development was begun, the sponsor provided the Secretary with sufficient information to enable the Secretary to assure that the development would be carried out in accordance with all applicable statutory and administrative requirements imposed on sponsors in connection with projects funded under this title, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

[(b)]*(c)* MAXIMUM OBLIGATION OF THE UNITED STATES.—When an offer is accepted in writing by a sponsor, the amount stated in the offer as the maximum obligation of the United States may not be increased, except that—

(1) in the case of any project for airport development (other than a project for land acquisition), the maximum obligation of the United States may be increased by not more than 10 percent; and

(2) in the case of any acquisition of land or interests in land, the maximum obligation of the United States may be increased by an amount not to exceed 50 percent of the total increase in allowable project costs attributable to such acquisition in land or interests therein, based upon current credible appraisals.

[(c)]*(d)* Notwithstanding any other provision of law, in the case of grants made under the Airport and Airway Development Act of 1970 the maximum obligation of the United States may be increased by not more than 10 percent, and any such increase may be paid for only from funds recovered by the United States from other grants made under that Act.

Section 513 of that Act

SEC. 513. PROJECT COSTS.

(a) * * *

(b) TERMINAL DEVELOPMENT.—(1) * * *

(2) [Not more than the greater of (A) $200,000, or (B) 60 percent of the] *The* sums apportioned under section 507(a)(1) of this title to the sponsor of a primary airport for any fiscal year may be obligated for project costs allowable under paragraph (1) of this subsection. Not more than $200,000 of the sums to be distributed at the discretion of the Secretary under [section 507(a)(3)] *section 507(a)(4)* for any fiscal year may be used by the sponsor of a commercial service airport which is not a primary airport for project costs allowable under pargraph (1) of this subsection.

(3)–(4) * * *

[(5) Notwithstanding any other provisions of this title, the United States share of project costs allowable under paragraph (1) of this subsection shall not exceed 50 percent.]

[(6)](5) The Secretary shall approve project costs allowable under paragraph (1) of this subsection under such terms and conditions as may be necessary to protect the interests of the United States.

Section 519 of that Act

SEC. 519. GENERAL POWERS.

The Secretary is empowered to perform such acts, to conduct such investigations and public hearings, to issue and amend such orders, and to make and amend such regulations and procedures, pursuant to and consistent with the provisions of this title, as the Secretary considers necessary to carry out the provisions of, and to exercise and perform the Secretary's powers and duties, under this title. *The Secretary shall propose implementing regulations with respect to the airport grant program authorized by this Act, receive and consider public comment (including possible amendments to sponsor assurances to be included in grant agreements), and promulgate final regulations not later than one year after the date of enactment of the Airport and Airway Capacity Expansion Act of 1987.*

Section 519 of that Act

SEC. 529. EXPLOSIVE DETECTION K-9 TEAMS.

The Secretary shall provide by grant for the continuation of the Explosive Detection K-9 Team Training Program for the purpose of detecting explosives at airports and aboard aircraft. There is authorized to be appropriated out of the Airport and Airway Trust Fund for purposes of this section not more than $150,000 nor less than $130,000 for each fiscal year beginning after September 30, 1981, and ending before [October 1, 1987] *October 1, 1990.*

Section 532 of that Act

SEC. 532. STATE TAXATION.

* * * * * * *

SEC. 533. DENIAL OF FUNDS FOR CERTAIN PROJECTS.

(a) IN GENERAL.—

(1) No funds provided under this Act may be used to fund any project which uses any product or service of a foreign country during any period in which such foreign country is listed by the United States Trade Representative under subsection (c) of this section.

(2) Paragraph (1) of this subsection shall not apply with respect to the use of a product or service in a project if the Secretary determines that—

(A) the application of paragraph (1) to such product, service, or project would not be in the public interest;

(B) products of the same class or kind as such product or service are not produced or offered in the United States, or in any foreign country that is not listed under subsection (c) of this section, in sufficient and reasonably available quantities and of a satisfactory quality; or

(C) exclusion of such product or service from the project would increase the cost of the overall project contract by more than 20 percent.

(b) DETERMINATIONS.—

(1) By no later than the date that is 30 days after the date on which each report is submitted to the Congress under section 181(b) of the Trade Act of 1974 (19 U.S.C. 2241(b)), the United States Trade Representative shall make a determination with respect to each foreign country of whether such foreign country—

(A) denies fair and equitable market opportunities for products and supplies of the United States in procurement; or

(B) denies fair and equitable market opportunities for United States bidders,

for construction projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign country.

(2) In making determinations under paragraph (1) of this subsection, the United States Trade Representative shall take into account information obtained in preparing the report submitted under section 181 of the Trade Act of 1974 and such other information as the United States Trade Representative considers to be relevant.

(c) LISTING OF FOREIGN COUNTRIES.—

(1) The United States Trade Representative shall maintain a list of each foreign country with respect to which an affirmative determination is made under subsection (b) of this section.

(2) Any foreign country that is added to the list maintained under paragraph (1) of this subsection shall remain on the list until the United States Trade Representative determines that such foreign country does permit the fair and equitable market opportunities described in subsection (b)(1) (A) and (B) of this section

(3) The United States Trade Representative shall annually publish in the Federal Register the entire list required under paragraph (1) of this subsection and shall publish in the Federal Register any modifications to such list that are made between annual publications of the entire list.

(d) DEFINITIONS.—For purposes of this section—

(1) Each foreign instrumentality, and each territory or possession of a foreign country, that is administered separately for customs purposes shall be treated as a separate foreign country.

(2) Any article that is produced or manufactured (in whole or in substantial part) in a foreign country shall be considered to be a product of such foreign country.

(3) Any service provided by a person that is a national of a foreign country, or is controlled by nationals of a foreign country, shall be considered to be a service of such foreign country.

SEC. 534. CONTRACTING FOR ENGINEERING AND DESIGN SERVICES.

Each contract or subcontract for program management, construction management, planning, studies, feasibility studies, preliminary engineering, design, architectural, engineering, surveying, mapping

or related services with respect to a project or program authorized, reauthorized or otherwise funded under this title shall be awarded in the same manner as the selection procedures in title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.) as in effect on the date of enactment of this section or an equivalent qualifications-based requirement prescribed for or by the procuring agency.

SEC 535. STATE BLOCK GRANT PILOT PROGRAM.

(a) PROMULGATION OF REGULATIONS.—Not later than 180 days after the date of enactment of this section, the Secretary shall promulgate regulations to implement a State block grant pilot program to become effective on October 1, 1989. Such program shall expire on September 30, 1991.

(b) ASSUMPTION OF CERTAIN RESPONSIBILITIES.—Such regulations shall provide that the Secretary may designate not more than five qualified States to assume administrative responsibility for all airport grant funding available under this title, other than funding which has been designated for use at primary airports.

(c) SELECTION.—The Secretary shall select States for participation in such program on the basis of applications submitted to the Secretary. The Secretary shall select any such State only if the Secretary determines that the State—

(1) has an agency or organization capable of administering effectively any block grant made under this section;

(2) uses a satisfactory airport system planning process;

(3) uses a programming process acceptable to the Secretary;

(4) has agreed to comply with Federal procedural and other standard requirements for administering any such block grant; and

(5) has agreed to provide the Secretary with such program information as the Secretary may require.

Before determining that any planning process is satisfactory or any programming process is acceptable, the Secretary shall ensure that such process provides for meeting critical safety and security needs, and that the programming process ensures that the needs of the national airport system will be addressed in deciding to which projects funds will be provided.

(d) REPORT.—The Secretary shall conduct an ongoing review of the program established under this section, and shall, not later than 90 days before its scheduled termination, report to the Congress the results of such review, together with recommendations for further action relating to the program.

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